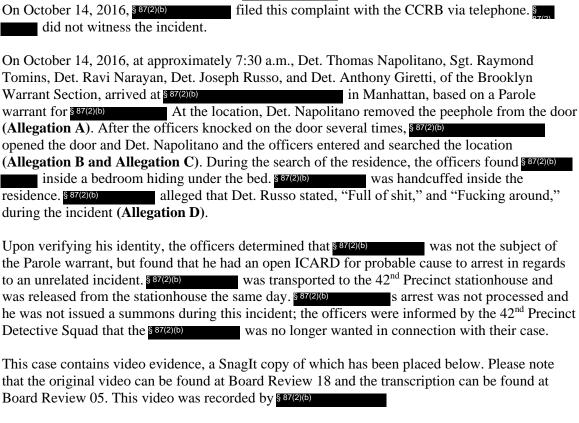
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	Те	am:	CCRB Case #:		Force	$\overline{\mathbf{V}}$	Discourt.	U.S.
Patrick Yu	Sq	uad #16	201608675	\square	Abuse		O.L.	☐ Injury
Incident Date(s)	Lo	cation of Incident:	<u> </u>	 	Precinct:	18	Mo. SOL	EO SOL
Friday, 10/14/2016 7:30 AM				-	07		/14/2018	4/14/2018
Date/Time CV Reported	CV	Reported At:	How CV Reported	 d:	Date/Time		eived at CCI	
Fri, 10/14/2016 1:10 PM		CRB	Phone				1:10 PM	
Complainant/Victim	Type	Home Add	ress					
Witness(es)		Home Add	ress					
Subject Officer(s)	Shield	TaxID	Command					
1. DT3 Joseph Russo	4054	939390	WARRSEC					
2. DT3 Thomas Napolitano	3282	940682	WARRSEC					
3. Officers			WARRSEC					
Witness Officer(s)	Shield No	Tax No	Cmd Name					
1. DT3 Ravi Narayan	04407	930799	WARRSEC					
2. SGT Raymond Tomins	05336	902480	WARRSEC					
3. DT3 Anthony Giretti	4617	938568	WARRSEC					
Officer(s)	Allegation				Inve	estiga	ator Recon	nmendation
A.DT3 Thomas Napolitano	Abuse: Dete		olitano damaged § 87(2	2)(b)				
B.DT3 Thomas Napolitano		ctive Thomas Nap	olitano entered and s in Manhattan.	earch	ed			
C. Officers	Abuse: Office § 87(2)(b)	eers entered and se	arched in Manhattan.					
D.DT3 Joseph Russo	Discourtesy: § 87(2)(b)	Detective Joseph	Russo spoke discour	teous	ly to			







2017-02-14 13-07-04.mp4

NYCHA video footage was also obtained. However, it did not contain any relevant footage of the incident.

This case exceeds 90 days due to initial difficulties with identifying the subject officers' correct command given that the officers were assigned to a different borough than of the incident location. Furthermore, there was also a seven day delay in receiving the NYPD documents from the subject officers' command.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation because \$87(2)(b) mentioned that he was in the process of seeking an attorney to file a civil lawsuit against the NYPD in regards to this incident.
- As of February 16, 2017, none of the civilians involved in this incident has filed a Notice of Claim (Board Review 29).

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•	§ 87(2)(b), § 87(2)(c)
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	Civilian and Officer CCRB Histories
•	has filed one prior CCRB complaint (Board Review 23).
	○ § 87(2)(b)
	This is the first CCRB complaint \$87(2)(b) has been involved in (Board Review
	24).
•	This is the first CCRB complaint \$87(2)(b) has been involved in (Board Review
	25).
•	Det. Napolitano has been a member of service for 11 years and has had 22 CCRB
	allegations pleaded against him in 12 cases; he has had one substantiated allegation. 887(2)(9)
	o In case number 201010420, the Board recommended that an allegation of force
	was to be substantiated with charges. Det. Napolitano was founded not guilty at
	the APU trial and thus the NYPD did not impose any penalty.
•	Det. Russo has been a member of the NYPD for 11 years and has had nine CCRB
	allegations pleaded against him in eight cases; none of which have been substantiated.
	g 61(2)(g)
	Potential Issues
•	refused to provide a sworn testimony in regards to this incident without
	giving a reason.
•	who is a minor, provided a phone statement upon \$87(2)(b) s consent.
	However, during the investigation, \$87(2)(b) did not schedule an interview for \$37(2)(b) to provide a sworn testimony.
	to provide a sworn testimony.
	Findings and Recommendations
plar	nation of Subject Officer Identification
•	From the video footage, an officer stated that they were from "Warrants." Documents

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were requested from both Manhattan Warrant Section and Bronx Warrant Section given that the incident occurred in Manhattan and $8^{87(2)(b)}$ alleged that he was transported to the 42^{nd} Precinct stationhouse. The documents did not aid in identifying any of the subject officers. However, it was noted on the document request that the case pertaining to the parole warrant was assigned to Brooklyn Warrants.

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- After receiving the relevant Roll Call from Brooklyn Warrants, the MOS Photo Viewing Machine was used to cross-referencing all of the officers listed with the officers depicted in the video provided by The query identified three officers, Det. Narayan, Det. Russo, and Sgt. Tomins, who all resembled the officers from the video.
- Additionally, during a phone call to the Warrant Section command for additional
 information in regards to the associated documents pertaining to the Parole case, an
 administrative officer voluntarily provided the Warrant Investigative Data. This
 document confirmed that Det. Napolitano and Sgt. Tomins were assigned to the Parole
 investigation pertaining to the CCRB incident.
- After reviewing the video footage during his CCRB interview, Det. Napolitano identified the last officer, who had not been identified at the time, as Det. Giretti.

•	§ 87(2)(g)

• While viewing the video footage during his CCRB interview, \$87(2)(b) pointed at the officer on the screen who he described as the officer wearing a grey sweater and stated that this was the officer who used profanities.

Allegations not pleaded

Refusal to show search warrant:

This allegation has not been pleaded given that the officers were in possession of a parole warrant and not a search warrant.

Detainment:

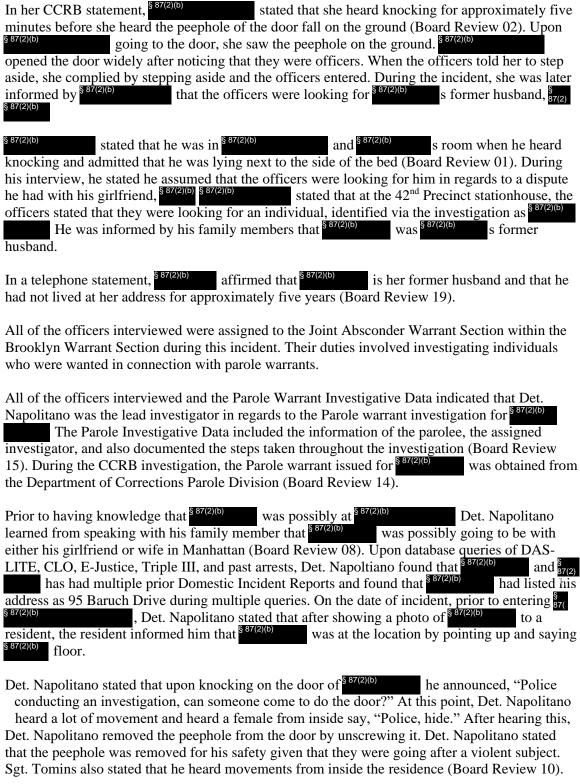
§ 87(2)(g)	after finding § 87(2)(b)	under the bed, the
officers conducted a computer check of his r	name and found that he had ar	active ICARD which
he was listed as a perpetrator with probable	cause to arrest. This was verif	ied by the NYPD DAS
Snapshot of §87(2)(b) (Board Review	16). § 87(2)(b) was appr	rehended due to the
ICARD and taken back to the stationhouse.		

Allegation A –Abuse	of Authority: De	etective Thomas	Napolitano	damaged § 87(2)(b)	Į
s property.					

Allegation B – Abuse of Authority: Detective Thomas Napolitano entered and searched in Manhattan.

Allegation C -Abuse of Authority: Officers entered and searched

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Det. Russo and Det. Giretti both stated that Det. Napolitano informed them that he heard movements from inside at the time (Board Review 09 and 13). Det. Narayan said that he heard a female's voice inside the apartment saying that she was not letting them in (Board Review 11 and 12). Det. Napolitano explained that the Public Housing doors peepholes which consisted of two pieces that are screwed together. Det. Napolitano stated that for his safety, he unscrewed the peephole to look inside the apartment. Det. Napolitano added that they were going after a violent subject who was a parole absconder and had been arrested for being in possession of a firearm. Upon looking through the peephole, Det. Napolitano saw someone, who he believed to be running from one end to the other end of the apartment. After approximately 30 seconds, opened the door and the officers entered. Upon searching the apartment, the officers found opened the door and the officers entered. Upon searching the apartment, the officers found under the bed. After open could hide. search was conducted which consisted of looking into places where a person could hide. search was not found at the residence during this incident.

As per the NYS Criminal Procedure Law (CPL) 690.50 §, a warrant of arrest may be executed any day of the week and any hour of the day or night (Board Review 20). In order to execute the arrest, the police officer may enter any premises in which he reasonably believes he defendant to be present; provided, however that where the premises in which the officer reasonably believes the defendant to be in present is the dwelling of a third party who is not the subject of the arrest warrant, the officer must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that giving of such notice will: (a) Result in the defendant escaping or attempting to escape; or (b) Endanger the life or safety of the officer or another person; or (c) Result in the destruction, damaging or secretion of material evidence.

<u>People v. McBride</u>, 14 N.Y.3d 440 (2010), officers may make warrantless entry into a home given the existence of exigent circumstances (Board Review 21). Six factors were established in determining whether exigent circumstances are present: 1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry.

7(2)(9)	
77(2)(g)	
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§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
Allegation D –Discourtesy: Detective Joseph Russo spoke discourteously to \$87(2)(b) It is in dispute whether or not Det. Russo used profanities when speaking to \$87(2)(b) Video evidence captured a male's voice saying, "full of shit," and "fucking around" (depicted between 00:01 - 00:04 seconds of the SnagIt video found in Board Review 07). However, it is in dispute as to who made the aforementioned statements.
After reviewing the video footage during his CCRB interview, \$87(2)(b) stated that he heard Det. Russo using profanities (Board Review 01).
During her CCRB testimony, \$87(2)(b) did not allege hearing any officers use any profanities (Board Review 02). After reviewing the video, \$87(2)(b) stated that she did not know who stated "full of shit," saying the word "fucking," and did not recall hearing that conversation.
Neither \$87(2)(b) nor \$87(2)(b) provided a sworn testimony to the CCRB for additional information in regards to whether or not they heard any officers using any profanities. In their phone statements, neither \$87(2)(b) nor \$87(2)(b) alleged that any officers used any profanities during the incident (Board Review 03 and 04).
Det. Russo stated that he did not believe he used any profanities during the incident and none of the other officers interviewed stated that they heard any officers using profanities (Board Review 08-13). All of the officers interviewed had an opportunity to review the video footage. None of the officers interviewed stated that they recognized Det. Russo's voice captured as the person using profanity.
§ 87(2)(g)

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Investigator:			
investigator	Signature	Print	Date
Squad Leader:		- <u></u>	
	Title/Signature	Print	Date
Reviewer:			
	Title/Signature	Print	Date

Squad: 16